

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

HONEYWELL INTERNATIONAL, INC. and
HONEYWELL INTELLECTUAL
PROPERTIES, INC.,

Plaintiffs,

vs.

ACER AMERICA CORPORATION, et al.,
Defendants.

Civil Action No. 6:07-CV-125 (LED)

**DEFENDANT RENESAS TECHNOLOGY CORP.'S ANSWER
AND AFFIRMATIVE DEFENSES TO THE COMPLAINT
OF HONEYWELL INTERNATIONAL, INC. AND
HONEYWELL INTELLECTUAL PROPERTIES, INC.**

Defendant Renesas Technology Corp. ("RTC") hereby presents its Answer and Affirmative Defenses to the Complaint dated March 20, 2007 of Plaintiffs Honeywell International, Inc. and Honeywell Intellectual Properties, Inc. (collectively "Honeywell").

I. ANSWER

RTC responds to the allegations in each of the corresponding numbered paragraphs of the Complaint below. To the extent the headings of the complaint are construed as allegations, they are each denied.

1. Denied, except RTC admits that Honeywell filed an action alleging patent infringement.
2. On information and belief, admitted.

3. Denied that both plaintiffs are properly named as parties to this action, otherwise, on information and belief, admitted.

4. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

5. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

6. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

7. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

8. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

9. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

10. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

11. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

12. Admitted.

13. Denied, except RTC admits that Renesas Technology America, Inc. is incorporated in Delaware with its principal place of business in San Jose, California.

14. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

15. Denied, except admitted to the extent RTC has shipped certain types of LCD driver products, if any, directly into the United States.

16. Denied.

17. Denied.

18. Denied, except RTC admits that United States Patent No. 5,041,823 (“the ‘823 Patent”) bears on its face August 20, 1991 as its issue date, and that a document purported to be the ‘823 Patent is attached to the complaint.

19. Denied to the extent these allegations relate to RTC’s activities; otherwise, RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

20. Denied.

21. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

22. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

23. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

24. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

25. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

26. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

27. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

28. Denied, except RTC states that LCD drivers manufactured by RTC are incorporated into various products by unrelated entities, over which RTC has no control.

29. Denied as to RTC. As to Renesas Technology America, Inc., denied on information and belief. As to all other defendants, RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

30. Denied as to RTC. As to Renesas Technology America, Inc., denied on information and belief. As to all other defendants, RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

31. RTC incorporates by reference paragraphs 1-30 of its Answer above.

32. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

33. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

34. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

35. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

36. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

37. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

38. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

39. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

40. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

41. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

42. RTC incorporates by reference paragraphs 1-41 of its Answer above.

43. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

44. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

45. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

46. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

47. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

48. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

49. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

50. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

51. RTC incorporates by reference paragraphs 1-50 of its Answer above.

52. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

53. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

54. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

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56. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

57. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

58. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

59. RTC incorporates by reference paragraphs 1-58 of its Answer above.

60. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

61. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

62. Denied.

63. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

64. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

65. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

66. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

67. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

68. RTC incorporates by reference paragraphs 1-67 of its Answer above.

69. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

70. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

71. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

72. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

73. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

74. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

75. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

76. RTC incorporates by reference paragraphs 1-75 of its Answer above.

77. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

78. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

79. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

80. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

81. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

82. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

83. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

84. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

85. RTC incorporates by reference paragraphs 1-84 of its Answer above.

86. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

87. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

88. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

89. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

90. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

91. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

92. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

93. RTC lacks knowledge or information sufficient to form a belief as to the allegations of this paragraph, and on that basis denied.

94. RTC incorporates by reference paragraphs 1-93 of its Answer above.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

100. Denied.

101. Denied.

102. Denied, except RTC admits it presently has notice of Honeywell's infringement allegations.

II. AFFIRMATIVE DEFENSES

In further answering Honeywell's Complaint, RTC pleads the following affirmative defenses, without admitting that RTC would bear the burden of proof on any of the following defenses:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

United States Patent No. 5,041,823 is invalid for failure to comply with the statutory requirements of one or more of the provisions in Title 35 of the United States Code, including §§ 102, 103, 112, and 116.

THIRD AFFIRMATIVE DEFENSE

RTC has not willfully, intentionally, recklessly, knowingly, or otherwise infringed, induced infringement of, or contributed to the infringement of any valid and enforceable claim of United States Patent No. 5,041,823 as properly construed.

FOURTH AFFIRMATIVE DEFENSE

On information and belief, all or some of Honeywell's claims for relief are barred by the doctrine of prosecution history estoppel.

FIFTH AFFIRMATIVE DEFENSE

On information and belief, all or some of Honeywell's claims for relief are barred by the doctrine of laches and/or equitable estoppel.

SIXTH AFFIRMATIVE DEFENSE

On information and belief, all or some of Honeywell's claims for relief are barred by the reverse doctrine of equivalents.

SEVENTH AFFIRMATIVE DEFENSE

On information and belief, Honeywell's claims for relief are barred, in whole, or in part, by failure to comply with the marking and/or notice provisions of 35 U.S.C. § 287.

EIGHTH AFFIRMATIVE DEFENSE

On information and belief, Honeywell's claims for relief are limited by 35 U.S.C. §§ 286 and 287, and Honeywell's recovery of costs is limited under 35 U.S.C. § 288.

NINTH AFFIRMATIVE DEFENSE

On information and belief, Honeywell's claims for relief are barred due to unclean hands.

TENTH AFFIRMATIVE DEFENSE

On information and belief, the alleged products of RTC accused of infringement by Honeywell in the Complaint practice or embody, in whole or in part, methods, apparatuses, and other technology that constitute prior art.

ELEVENTH AFFIRMATIVE DEFENSE

Application of 35 U.S.C. § 271 to RTC's conduct that occurred outside the United States would render the Patent Act unconstitutional.

TWELFTH AFFIRMATIVE DEFENSE

Application of 35 U.S.C. § 271 to RTC's conduct that occurred outside the United States would violate International Law.

THIRTEENTH AFFIRMATIVE DEFENSE

Application of 35 U.S.C. § 271 to RTC's conduct that occurred outside the United States would violate RTC's Due Process Rights, as an unreasonable extension of U.S. law to cover conduct occurring abroad.

FOURTEENTH AFFIRMATIVE DEFENSE

Honeywell has engaged in patent misuse to the extent Honeywell alleges direct or indirect infringement by RTC for RTC's conduct that occurred outside the United States.

FIFTEENTH AFFIRMATIVE DEFENSE

Honeywell has engaged in patent misuse to the extent Honeywell alleges RTC is liable for indirect infringement based on the actions of entities authorized to practice the patented invention by Honeywell or its predecessors in interest.

SIXTEENTH AFFIRMATIVE DEFENSE

On information and belief, Honeywell's claims for relief are barred, in whole, or in part, by the doctrine of patent exhaustion or the first sale doctrine.

SEVENTEENTH AFFIRMATIVE DEFENSE

On information and belief, Honeywell's claims for relief are barred, in whole, or in part, by the doctrine of implied license.

EIGHTEENTH AFFIRMATIVE DEFENSE

On information and belief, some or all of RTC's products accused of infringement are sufficiently and duly licensed or authorized (directly or by beneficial right or implication) by all necessary holders (including but not limited to Honeywell) of any alleged rights therein or pertaining thereto.

NINETEENTH AFFIRMATIVE DEFENSE

On information and belief, Honeywell's claims for relief are barred, in whole, or in part, by the single recovery rule.

TWENTIETH AFFIRMATIVE DEFENSE

Some or all of the products of RTC accused of infringement by Honeywell are not sold or have not been made, used, sold, or offered for sale in the United States by RTC.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Honeywell's complaint violates Federal Rule of Civil Procedure 20(a) as it improperly asserts a right to relief against multiple defendants not arising out of the same transaction, occurrence, or series of occurrences.

PRAYER FOR RELIEF

For these reasons, RTC respectfully prays for the following relief:

- a. Judgment against Honeywell denying with prejudice all relief requested in Honeywell's Complaint and its prayer therein, and that Honeywell take nothing;
- b. Judgment that this case is an exceptional case if and to the extent that it is determined that Honeywell has brought or maintained the instant action without an adequate pre-filing investigation as to the basis for the sustainability of its claims as filed, or has engaged in patent misuse or anti-competitive conduct, or has engaged in inequitable conduct in conjunction with the acquisition of the '823 Patent, or has engaged in objectively unreasonable, oppressive, vexatious, dilatory, or otherwise inappropriate conduct in conjunction with this action, discovery herein, or its overall course of conduct with respect to the '823 Patent;
- c. Judgment awarding RTC its costs and attorneys' fees; and

d. Judgment awarding RTC such other relief the Court deems just, equitable, and proper.

JURY DEMAND

RTC demands a trial by jury on all issues so triable.

Date: November 2, 2007

Respectfully submitted,

/s/ Diane V. DeVasto

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**Attorneys for Defendant
RENESAS TECHNOLOGY CORP.**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 2nd day of November 2007. Any other counsel of record will be served by first class U.S. mail on this same date.A

/s/ Diane V. DeVasto

Diane V. DeVasto